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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,291	02/10/2004	Tim T. Clark	6935-01	1922

4897 7590 02/16/2005  
ROBERT C. KAIN, JR.  
750 SOUTHEAST THIRD AVENUE  
SUITE 100  
FT LAUDERDALE, FL 333161153

EXAMINER
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WRIGHT, ANDREW D

ART UNIT	PAPER NUMBER
3617	

DATE MAILED: 02/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/775,291

Applicant(s)

CLARK ET AL.

Examiner

Andrew Wright

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-14 is/are allowed.
- 6) ☒ Claim(s) 1-9 and 24-29 is/are rejected.
- 7) ☒ Claim(s) 15-23 and 30-32 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/10/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

1. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119(e) as follows:

An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence(s) of the specification or in an application data sheet by identifying the prior application by application number (37 CFR 1.78(a)(2) and (a)(5)). If the prior application is a non-provisional application, the specific reference must also include the relationship (i.e., continuation, divisional, or continuation-in-part) between the applications except when the reference is to a prior application of a CPA assigned the same application number.

In the instant non-provisional application, the reference to the parent provisional applications is defective because it does not list the application number of the provisional applications.

Furthermore, the declaration of the instant application does not list the application number of the parent provisional applications.

### ***Specification***

2. The disclosure is objected to. Reference number "20" has been used with two different elements (Paragraphs 0022 and 0031). Appropriate correction is required.

3. The use of the trademark "General Motors" has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-9 and 24-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Regarding claims 1 and 24, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). Claims 2-9 and 25-29 depend from claims 1 and 24 and are rejected for the same reason. For examination, the phrase "such as" will be ignored, and the positively recited elements will be treated as such.

### ***Double Patenting***

7. Claims 15-32 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 1-14. When two claims in an application are duplicates or else are so close in

content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

8. Claim 15 is identical to claim 1 except for the "such as..." language in the preamble of claim 1. Claims 16-23 are identical to claims 2-9, respectively.

9. Claim 24 is identical to claim 1 except that claim 24 omits a recitation of a "geared transmission" that is present in the preamble of claim 1. Since, in claim 1, the recitation is in the preamble and the body of claim 1 does not breathe life into the recitation, then the recitation is not afforded patentable weight. (A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).) Therefore, claim 24 is substantially identical to claim 1. Claims 25-29 are identical to claims 2-4, 6, and 7, respectively.

10. Claim 30 is identical to claim 10 except that claim 30 omits a recitation of a "geared transmission" that is present in the preamble of claim 10. Since, in claim 10, the recitation is in the preamble and the body of claim 10 does not breathe life into the recitation, then the recitation is not afforded patentable weight. (A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on

Art Unit: 3617

the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).) Therefore, claim 30 is substantially identical to claim 10. Claims 31 and 32 are identical to claims 11 and 12, respectively.

***Allowable Subject Matter***

11. Claims 10-14 are allowed.

12. Claims 1-9 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

13. The following is an examiner's statement of reasons for allowance: the prior art does not teach or suggest the claimed combination, specifically including the accessories mounted on the housing, the shafts mounted through the housing, and the gears. It is noted that all of the independent claims use means-plus-function language thereby presumably invoking 35 USC 112 6<sup>th</sup> Paragraph. The corresponding structure is understood from Paragraph 0033 of the specification.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Connell ('663) shows a housing around a flywheel and gears, where a water pump is mounted on the housing and a shaft extends through the housing. Trapp ('242) shows a marine engine where the accessories are between the engine and transom and on an intermediate housing. Ueda et al. ('558) shows a supercharger mounted on a transmission housing and driven off of an edge gear of the flywheel. Winter ('959) shows accessories, including an alternator and pumps, mounted on a transmission housing.

15. Any inquiry concerning this communication should be directed to examiner Andrew D. Wright at telephone number (703) 308-6841. The examiner can normally be reached Monday-Friday from 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano, can be reached at (703) 308-0230. The fax number for official communications is 703-872-9306. The fax number directly to the examiner for unofficial communications is 703-746-3548.

The examiner and his supervisor are relocating to the new Office campus in Alexandria, VA, on or around April 11, 2005. Telephone calls to the examiner and/or examiner's supervisor after that date should be directed as follows. The examiner's new telephone will be (571) 272-6690. The examiner's fax number for unofficial

Art Unit: 3617

communications will be (571) 273-6690. The supervisor's new telephone number will be (571) 272-6684.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andrew D. Wright  
Patent Examiner  
Art Unit 3617

*AW 2/11/05*  
**ANDREW D. WRIGHT**  
**PRIMARY EXAMINER**